



IOWA LEGISLATIVE INTERIM CALENDAR AND BRIEFING

Legislative Services Agency

December 21, 2006

2006 Interim No. 18

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Wednesday, January 3, 2007

Administrative Rules Review Committee

9:00 a.m., Room 116, Statehouse

Monday, January 8, 2007

Eighty-Second General Assembly, 2007 Regular Session Convenes

10:00 a.m., Senate and House of Representatives

Iowa Legislative Interim Calendar and Briefing is published by the Legislative Services Agency (LSA). For additional information, contact: LSA at (515) 281-3566.



AGENDAS

INFORMATION REGARDING SCHEDULED MEETINGS

Administrative Rules Review Committee

Chairperson: Representative George Eichhorn

Vice Chairperson: Senator Jack Kibbie

Location: Room 116, Statehouse

Date & Time: Wednesday, January 3, 2007, at 9:00 a.m.

Contact Persons: Joe Royce, LSA Counsel, (515) 281-3084; Emily Gardyasz, LSA Counsel, (515) 281-4800

Agenda: Published in the Iowa Administrative Bulletin <http://www.legis.state.ia.us/Rules/Current/Bulletin/>



BRIEFINGS

INFORMATION REGARDING RECENT ACTIVITIES

REVENUE ESTIMATING CONFERENCE

December 12, 2006

Chairperson: Mr. Dennis Prouty

Background. The Revenue Estimating Conference (REC) is a statutorily created body consisting of the Director of the Legislative Services Agency (LSA) and the Governor, or their designees, and a third member agreed to by the other two. In addition to Mr. Dennis Prouty, the other members are Mr. Mike Ralston, Association of Business and Industry, and Mr. David Underwood of Mason City. The REC is required to provide an estimate of State General Fund revenues. In addition, an estimate must be provided for FY 2007-2008 by December 15, 2006. This estimate is required by statute to be used by the Governor in presenting his budget for FY 2007-2008 and by the General Assembly in its budget process, and is used as a basis for calculating the State General Fund Expenditure Limitation.

FY 2006-2007. The REC reviewed its previous estimate made October 16, 2006, for FY 2006-2007. After the discussion, specifically in regard to the change in the personal income tax which comprises more than half of State General Fund revenues, of the estimates submitted by LSA Fiscal Services Division and the Department of Management (DOM), it was unanimously agreed to adjust the previous estimate. The adjustment was to increase by about \$27.2 million the projection for net State General Fund receipts for FY 2006-2007. This adjustment results in total estimated net receipts of \$5,567.4 million, an increase of about \$184.9 million over the FY 2005-2006 amount or 3.4 percent.

FY 2007-2008. Again considering the estimates submitted by LSA and DOM, REC produced an estimate for FY 2007-2008, which exceeded its October 16, 2006, estimate by \$12.5 million. The resulting net State General Fund receipts estimate for FY 2007-2008 equals \$5,751.6 million or a 3.3 percent increase over its latest FY 2006-2007 estimate. This increase amounts to \$369.1 million more revenue for the next fiscal year.

Members commented about concerns that REC projections may be too low, suggesting that a conservative estimate provides a margin of safety in the budgeting process and that a later projected increase can be accommodated much more readily than a decrease.

Gambling Revenues. The REC agreed to estimated gambling revenues that would be deposited into other funds for FY 2006-2007 and FY 2007-2008 as \$210.4 million for both fiscal years.

LSA Monitor: John Pollak, Legal Services Division, (515) 281-3818

ADMINISTRATIVE RULES REVIEW COMMITTEE

December 12 and 13, 2006

Chairperson: Representative George Eichhorn

Vice Chairperson: Senator Jack Kibbie

HUMAN SERVICES DEPARTMENT, Smoking Cessation: Medicaid Coverage, 11/08/06 IAB, ARC 5536B, ADOPTED.

Background. 2005 Iowa Acts, House File 825, expanded the Medicaid program to include smoking cessation drugs. These rules identify some specific prescription-only medications, along with the nicotine patch and gum, as the only Medicaid-eligible items. Counseling is also a component of this program. Under the rules, Medicaid recipients may enroll in one 12-week course every year.

Commentary. The Committee received public comment encouraging an expansion of the available treatments. It was noted that the \$2 million cost for medication would only be increased several hundred thousand dollars by expanding the available treatments to include lozenges or other alternatives. Comment was also made that even motivated individuals require several attempts before quitting smoking.

Department representatives noted they have not ruled out expanding available treatments, but would follow the standard practice it currently uses to evaluate new Medicaid treatments. Committee members encourage expansion of the program, noting the modest increase in cost and the potential health savings if more clients quit smoking.

Action. No action taken, additional review is possible.

NATURAL RESOURCES DEPARTMENT, Dock Fees and Regulation, 11/08/06 IAB, ARC 5532B, NOTICE.

Background. The department regulates the placement and construction of docks, hoists, and other structures adjacent to Iowa's public waterways. This proposal revises certain fees for the maintenance of a dock or a hoist and regulates their number and placement.

Commentary. Department representatives noted that shoreline property has exploded in value, now being priced in dollars per inch. They stated the rules attempt to balance the public right to enjoy these public waterways with the ri-



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(Administrative Rules Review Committee continued from Page 3)

parian owners right to utilize their own property. In a previous proposal the key issue was the increase in fees; in this renote the fee issue has largely been resolved, but discussion continues concerning limits on the placement of docks and hoists. Docks must be located "to limit their adverse impacts on the aquatic ecosystem" and may extend into the water only the distance necessary for reasonable access to the water, and must be removed from public water not later than December 15. A density threshold of one hoist or slip per 12.5 feet of shoreline is proposed for new permits, although exceptions for good cause are available.

Action. No action taken, additional review is anticipated on final adoption of these rules.

PROFESSIONAL LICENSURE DIVISION, Physician Assistants, 11/08/06 IAB, ARC 5522B, NOTICE.

Background. A physician assistant works under the general supervision of a physician. Both the Board of Physician Assistant Examiners and the Board of Medical Examiners have regulatory authority. The physician assistant board regulates the practice of the assistant while the medical board regulates the supervising physician.

Commentary. The Board of Physician Assistant Examiners proposes several revisions to its licensure rules; two relate directly to the physician supervision requirements of the physician assistant. These changes were generally opposed by representatives of physicians, who contended these changes breach informal agreements that had earlier been reached by the professions. The revisions were supported by physician assistants who contended the rules are intended to streamline paperwork, thus making it easier for an assistant to practice, and to conform the rules to actual practice.

Under the current rules, a physician assistant must report any addition or replacement of a supervising physician to the board within 90 days of that change. Under this revision, the report must be made at the time of license renewal.

The second change allows the supervising physician to train the assistant in a new medical procedure without being physically present. Board representatives noted that medical procedures change constantly and that this change allows the physician and the assistant to determine which training method, such as telemedicine or similar remote learning technique, would be the most effective. Opponents at the time of this change protested that the supervising physician is responsible for the actions of the assistant and should directly provide any needed training.

The third change eliminates a current requirement that the physician assistant notify the supervising physician at the time when the physician is listed as a supervising physician. The change places the burden on both the physician and assistant to be aware of their respective responsibilities. Opponents contended that supervision responsibilities are critical, noting that in some organizations a number of physicians share supervisory responsibilities. They cited a case is pending where a particular physician was unaware that he was the supervising physician when the assistant provided incorrect treatment.

Committee members noted this is a notice of intended action and requested that the interested persons meet privately with the hope that compromises can be reached prior to the final adoption of the rule.

Action. No action taken, additional review is anticipated on final adoption.

PUBLIC HEALTH DEPARTMENT, Prescription Drug Donation Program, 11/08/06 IAB, ARC 5563B, NOTICE.

Background. 2005 Iowa Acts, chapter 97 (Code chapter 135M) created the Prescription Drug Donation Repository. This new program, now implemented by the department in consultation with the Board of Pharmacy Examiners, allows medical facilities and pharmacies to accept and dispense donated prescription drugs and supplies, and sets out the eligibility criteria for individuals to receive those prescription drugs and supplies.

Commentary. Committee members met with a private contractor who will manage the distribution process. It was noted that only sealed medications can be recycled, because of the possibility of contamination of open containers.

Action. No action taken.

Next Meeting. The next Committee meeting will be held in Senate Committee Room 116, in the Statehouse on Wednesday, January 3, 2007, at 9:00 a.m.

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CONTINUITY OF GOVERNMENT PLANNING STUDY COMMITTEE

December 13, 2006

Co-chairperson: Senator Jack Kibbie

Co-chairperson: Senator Larry McKibben

Co-chairperson: Representative Jodi Tymeson



BRIEFINGS

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(Continuity of Government Planning Study Committee continued from Page 4)

Overview. The Continuity of Government Planning Study Committee was created by the Legislative Council to discuss issues concerning continuity of government and continuity of legislative operations following a disaster. The Committee elected Senator Jack Kibbie, Senator Larry McKibben, and Representative Jodi Tymeson Co-chairpersons. The Committee received testimony from the Legislative Services Agency (LSA) and from representatives from the Iowa Homeland Security and Emergency Management Division of the Department of Public Defense and adopted recommendations to be contained in the Committee's final report to the General Assembly.

Continuity Laws. Mr. Ed Cook, Senior Legal Counsel, Legal Services Division, LSA, addressed the Committee concerning the various constitutional and statutory provisions governing continuity of government following a disaster. Specifically, the Committee examined provisions governing gubernatorial succession, replacement of statewide elected officials, legislative elections to fill vacancies, and financing of government operations. In addition, issues governing the operation of the General Assembly following a disaster, including the location of session and applicable legislative voting requirements, were discussed.

Continuity Planning. Mr. Steve Zimmerman, Preparedness Bureau Chief, and Mr. Ken Brink, Chief Planner, both from the Iowa Homeland Security and Emergency Management Division, discussed issues involved with continuity planning. The presenters discussed the tenets of continuity planning and the elements and objectives of good continuity planning. The presenters also discussed the continuity planning that has occurred for the executive branch of government and described planning considerations for developing a continuity plan for the General Assembly.

Recommendations. The Committee made the following recommendations:

1. The General Assembly should engage in continuity of government and operations planning which should include coordination with the executive branch in identifying alternative locations for continued operation of the General Assembly following a disaster.
2. The membership of the conference designated by statute to determine, if asked, whether the office of governor be vacated due to disability should be changed to replace the nonexistent position of "Director of Mental Health."
3. Rules and statutes governing legislative procedure should be examined and modified, if necessary, to provide flexibility for the General Assembly to act if a disaster makes holding session and voting at a common location impossible.
4. Any statutory provisions inconsistent with the Iowa constitutional change providing that the office of Governor and Lieutenant Governor not be separately elected should be changed.

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Internet Page: <http://www.legis.state.ia.us/aspx/Committees/Committee.aspx?id=151>

GOVERNMENT OVERSIGHT COMMITTEE

December 13 and 14, 2006

Co-chairperson: Senator Thomas Courtney

Co-chairperson: Senator Ron Wieck

Co-chairperson: Representative Dwayne Alons

Overview. The primary focus of the meeting concerned a response by the Department of Corrections (DOC) to previous testimony regarding the potential and necessity for implementation of cost savings measures and efficiencies, a semiannual update and budgetary review by the Iowa Lottery Authority, a discussion of issues causing a split among county treasurers with regard to implementation and financial management of a website established for the collection of property taxes, input from gambler's treatment program providers regarding the service contract request for proposals process, review of a staff augmentation proposal advanced by the Department of Administrative Services (DAS), and examination of issues which have arisen between Iowa Workforce Development (IWFD) and the Iowa Central Community College (ICCC).

Department of Corrections – Cost Savings Measures. Mr. John Baldwin, Deputy Director, DOC, related DOC's position regarding testimony previously provided by a former inmate identifying areas for potential cost savings at DOC institutions and assertions of offender mistreatment by DOC staff.

With reference to an issue raised about waste in DOC usage of individual salt and pepper packets, Mr. Baldwin stated that the packets are often utilized in lieu of less expensive salt and pepper shakers to reduce the likelihood of inmate



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salt overdosing and the potential for utilization of shakers as a weapon. Regarding an assertion that an unused boiler is sitting on the ground at the Mt. Pleasant Correctional Facility and might be better utilized, Mr. Baldwin explained that the boiler was salvaged from another institution approximately ten years ago and is utilized for spare parts needed for repairing comparable boilers at Mt. Pleasant. In connection with allegations of staff mistreatment, Mr. Baldwin indicated that there are numerous opportunities for offenders to publicize grievances, that they are supplied with a toll-free number to the Office of the State Ombudsman, that staff at all DOC facilities are trained on appropriate responses to offender aggression, and that the staff at the facility in question have addressed and refuted these particular allegations.

Mr. Baldwin additionally commented on several new DOC cost-saving initiatives, and emphasized that while DOC is a relatively expensive agency, it makes an ongoing and concerted effort to reduce costs whenever possible. Committee discussion included procedures utilized to reduce food waste and the purchase of food on the secondary market, utilization of offenders with food service backgrounds, confiscation procedures in relation to offender personal belongings, offender recidivism rates, and an update on drug possession and usage recently uncovered at the Fort Madison facility.

Iowa Lottery Update. Dr. Ed Stanek, President and Chief Executive Officer, Iowa Lottery Authority, updated the Committee on financial results for calendar year 2006, reviewed budgets for FY 2006-2007 and FY 2007-2008, and identified new games being introduced by the lottery. Dr. Stanek cited two large prizewinners during 2006 resulting in the payment of approximately \$15 million in income taxes to the state treasury, stated that the lottery experienced record sales and profits for the year, summarized the new Iowa Great Places and Lucky 7's games, and discussed the financial and legal impact of the discontinuance of TouchPlay. He also related that lottery executives continue to closely monitor fuel prices and the expansion of casino gambling to determine their impact on lottery sales and profits, and discussed an innovative self-exclusion program.

Committee discussion included the regulation and impact of internet gambling, the extent to which problem gamblers are subject to multiple addictions, the status of a lawsuit regarding public access status for documents related to TouchPlay, and the possibility that future financial and budgetary information might be presented in a more standardized format.

County Treasurers – Interest Income and Account Ownership Issues. Ms. Mary Maloney, Polk County Treasurer, accompanied by Ms. Lana Taylor, Poweshiek County Treasurer, and Iowa State County Treasurers Association (ISCTA) members addressed the Committee concerning issues which have arisen in connection with reimbursement of interest accruing from tax and vehicle license receipt deposits and control of the account into which such deposits are made. Ms. Maloney provided background information relating to the development of a website originally intended to facilitate online payment of property taxes, indicating that she coordinated the website project from its inception; that usage of the website expanded significantly; that a decision was approved to open an interest-bearing account which ultimately accumulated over \$600,000 in interest; and that based on advice from the Polk County Attorney's Office the interest was fully distributed on a proportionate basis to each county's respective Board of Supervisors. Ms. Maloney indicated that she continues operating a website on behalf of nine counties, with the other counties opting to develop an independent website.

Members of ISCTA responded that they agree the interest has been fully distributed, but maintain that the interest-bearing account should be jointly owned and that requests for information from Ms. Maloney regarding interest accrual and disbursement were disregarded. Committee discussion centered upon the need for an independent audit conducted by the State Auditor to provide verification regarding interest accrual and disbursement, the potential for the rift among county treasurers to result in a disservice to the public, and a desire that the two factions work together to put aside their differences and move forward. It was ultimately determined that the Committee will send a letter to Ms. Maloney requesting the following information:

- Copies of the audit reports conducted by external auditors relating to interest income receipts and interest earned.
- Documentation of Polk County's costs associated with maintaining the website.
- Copies of bank account statements for the fund or funds that received receipts and reflect the interest income earned, including statements for all Polk County funds or accounts that benefited from the receipts and interest earned.
- Minutes or other documentation reflecting any related discussions between the Polk County Treasurer's Office, the Polk County Attorney's Office, and the Polk County Board of Supervisors.



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(Government Oversight Committee continued from Page 6)

Gambler's Treatment Program – Request For Proposals Process. Ms. Lisa Pierce, Central Iowa Gambling Program, Inc., Ms. Jan Meisenbach, Eastern Iowa Gambling Treatment Center, Mr. John Hostetler, President of the Iowa Council on Problem Gambling, and Ms. Julie Sheppard, Training Resources, provided input relating to the request for proposals (RFP) process utilized for FY 2006-2007 service contracts and associated interactions with the Iowa Department of Public Health (IDPH). Ms. Pierce and Ms. Meisenbach related a series of concerns centering on frustration with the contract submission process, contract rescissions requiring resubmissions without reimbursements for expenses accrued during appeals, lack of notification if previously identified concerns had been addressed, and burdensome and duplicative additional conditions upon receipt of a contract. Ms. Meisenbach inquired as to whether a subcommittee had been established by the Committee to monitor the establishment of transitional housing facilities in eastern Iowa and timing concerns previously expressed regarding the flow of funding to service providers, and was informed that it had not.

Mr. Hostetler and Ms. Sheppard, appearing on behalf of the council, presented a contrasting viewpoint. They noted that IDPH has undergone a personnel transition regarding gambler's treatment program authority and management resulting in an improved level of communication and responsiveness, indicating that while changes to the RFP process would be welcomed, they feel that existing procedures are consistently and fairly applied. They suggested that the difficulties identified by Ms. Pierce and Ms. Meisenbach may not represent the view of a majority of service providers. Committee discussion included members indicating awareness of inconsistencies in the RFP process which appear to require a solution, questions regarding the emphasis placed on eastern Iowa regarding the lack of transitional housing, and a decision to invite the Director of IDPH and a representative from the Governor's Office to an upcoming meeting to address the issues identified.

Staff Augmentation Proposal – DAS. Ms. Mollie Anderson, Director, DAS, accompanied by Mr. John Gillespie, DAS, provided information regarding a proposal to facilitate staff augmentation for information technology (IT) services by contracting with a single provider operating a vendor network. Ms. Anderson identified Computer Aid, Inc. (CAI) as the provider and related that the company had been selected and utilized by the state of Pennsylvania with reports of significant cost savings and increased involvement of women and minority-owned businesses. Ms. Anderson emphasized that utilization of CAI would be in addition to, rather than in lieu of, vendors registered on the state's invitation to qualify list; that positive feedback from Pennsylvania stakeholders internal and external to state government has been obtained by DAS staff; that a three-to-five dollar per hour charge would be paid to CAI on top of the rate charged by the network member; that the contract would not violate any competitive bid processes; and that state agencies are projected to experience lower hourly rates, faster placement of resources, better tracking ability, and reduced administration time.

Ms. Ann Graham, American Computer Services, Inc., identified several concerns with the proposal. American Computer Services, Inc. is an existing vendor contracting with the state for IT staff augmentation, and it was Ms. Graham's impression during discussion of the proposal at a recent Technology Governance Board meeting that the proposal would likely be implemented and on a fairly rapid timeline. Ms. Graham related that Pennsylvania ultimately made utilization of the CAI network mandatory, disputed cost savings amounts, cited the potential for increased competition for Iowa businesses, and maintained there is a likelihood for hidden costs and fees.

Committee discussion echoed some of these concerns, with particular attention focused on quality of services provided by CAI contractees, duration and renewability of any agreement signed, and difficulty accepting that the increased hourly charge of three to five dollars is the primary profit realized by CAI, with additional profit potentially achieved at vendor's expense. Members acknowledged the consistent efforts put forth by DAS in identifying and implementing cost-saving strategies, and the possibility that this might encourage small businesses otherwise intimidated by the state agency invitation to qualify process to initiate a relationship. It was determined that implementation efforts by DAS would not continue until additional information relating to the financial impact of the proposal on Iowa vendors and employees is supplied by DAS to the Committee, that other vendor representatives and CAI personnel would appear before the Committee for further inquiry, and that the Committee would continue to monitor the proposal.

House Government Oversight Committee – IWFD and ICCC. Following adjournment of the Joint Government Oversight Committee, a separate meeting of the House Standing Committee on Government Oversight was held to discuss issues which have arisen between IWFD and ICCC. Mr. Dave Neil, Interim Director, IWFD, provided background information relating to the construction of a building in Fort Dodge by ICCC for the furnishing of IWFD programs. Mr. Neil indicated that a contract was signed between IWFD and ICCC containing a six-month "escape clause," and that subsequent to entering into the contract IWFD availed itself of the clause based upon funding reductions and the reali-



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zation that the square footage of the building exceeded IWFD's requirements. Mr. Neil stated that he understands that ICCC is looking for tenants to lease space in the building, and that discussions between IWFD and ICCC continue. Representative Eichhorn expressed concern that the building might have been constructed with modifications conforming to IWFD specifications resulting in a potential disadvantage in trying to lease it for other uses, and expressed the hope that the two parties will continue their efforts to come to some agreement regarding utilization of at least part of the building by IWFD.

Mr. Neil also addressed the issue of the temporary closure of an IWFD office in Webster City, explaining that ICCC decided to lease space previously occupied by IWFD to another party, offered alternative space to IWFD which IWFD determined was not sufficient for its purposes, and that IWFD has secured a lease at a new location with plans to re-open its office beginning in January 2007. Mr. Neil added that IWFD incurred expenses involved in the moving of equipment and data lines, and that rent expenses at the new location will exceed the level IWFD was previously paying.

Next Meeting. This was the final meeting scheduled during the 2006 Legislative Interim. The Committee will continue meeting during the 2007 Legislative Session, which is scheduled to commence January 8, 2007. Meeting dates, times, and locations will be determined and announced.

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Internet Page: <http://www3.legis.state.ia.us/ga/committee.do?id=41>



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Iowa Legislative Interim Calendar And Briefing

